

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

ADAM M. GLOWKA,

Plaintiff,

v.

CIVIL ACTION NO. 5:14-cv-18500

UNITED STATES OF AMERICA and
MEDIC JEFFREY WALKER,

Defendants.

MEMORANDUM OPINION AND ORDER

On June 16, 2014, the Plaintiff filed a pro-se Complaint (Document 1) in the above-styled matter. By *Standing Order* (Document 2) entered on that date, the matter was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636.

For the Court's consideration are the following motions: 1) the *Defendants' Motion to Dismiss* (or in the alternative, motion for summary judgment) (Document 16) filed on September 4, 2014, 2) the Plaintiff's *Motion in Opposition to Defendants' Motion to Dismiss* (Document 21) filed on October 6, 2014, 3) the Plaintiff's *Motion to Amend the Complaint* (Document 25) filed on October 6, 2014 and 4) the Plaintiff's *Motion for Default Judgment* (Document 26) filed on October 6, 2014.

On May 27, 2015, the Magistrate Judge submitted a *Proposed Findings and Recommendation* (Document 33) wherein it is recommended that this Court: 1) grant the *Defendants' Motion to Dismiss* (or in the alternative, motion for summary judgment), 2) deny the Plaintiff's *Motion in Opposition to Defendants' Motion to Dismiss*, 3) deny the Plaintiff's *Motion to Amend the Complaint*, 4) deny the Plaintiff's *Motion for Default Judgment*, 5) dismiss the Plaintiff's Complaint and 6) remove this matter from the Court's docket.

Objections to the Magistrate Judge's *Proposed Findings and Recommendation* were originally due by June 15, 2015. However, the deadline was extended to July 7, 2015, by *Order* (Document 36) entered June 23, 2015. Neither party filed timely objections to the Magistrate Judge's *Proposed Findings and Recommendation*.¹

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and a party's right to appeal this Court's order. 28 U.S.C. § 636(b)(1). (See also *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984)).


Accordingly, the Court **ADOPTS** and incorporates herein the findings and recommendation of the Magistrate Judge as contained in the *Proposed Findings and Recommendation*, and **ORDERS** that: 1) the *Defendants' Motion to Dismiss* (or in the alternative, motion for summary judgment) (Document 16) be **GRANTED**, 2) the Plaintiff's

¹On June 17, 2015, the Plaintiff filed a *Motion for Extension to File Objections* (Document 35) wherein he requested a deadline extension until July 17, 2015, within which to file his objections. The Court's June 23, 2015 *Order* (Document 36) granted an extension until July 7, 2015. However, the docket reveals that the copy of the aforesaid *Order* mailed to the Plaintiff was returned as undeliverable on July 6, 2015 (Document 37).

Motion in Opposition to Defendants' Motion to Dismiss (Document 21) be **DENIED**, 3) the Plaintiff's *Motion to Amend the Complaint* (Document 25) be **DENIED**, 4) the Plaintiff's *Motion for Default Judgment* (Document 26) be **DENIED**, 5) the Plaintiff's Complaint (Document 1) be **DISMISSED** and 6) this matter be **REMOVED** from the Court's docket.

The Court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented party.

ENTER: July 14, 2015


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA